



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 25, 1996

Ms. Tina Plummer  
Open Records Coordinator  
Texas Department of Mental Health  
and Mental Retardation  
P.O. Box 12668  
Austin, Texas 78711-2668

OR96-1940

Dear Ms. Plummer:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101535.

The Texas Department of Mental Health and Mental Retardation (the "department") received a request for information concerning a client of Denton State School, a department facility. You assert that portions of the requested information, which you labeled as Exhibits A, B, and C, are excepted from required public disclosure based on section 552.101 of the Government Code.

Section 552.101 excepts from public disclosure information that is deemed confidential by law, including information a statute makes confidential. You raise Human Resources Code section 48.101(a)(3), which reads as follows:

(a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

(3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter [(Human Resources Code section 48.001 *et seq* pertaining to investigations of abuse, exploitation, or neglect of an elderly or disabled person)] or in providing services as a result of an investigation.

We believe section 48.101(a)(3) covers the information at issue. However, the requestor here is the subject of the report. The department's rules provide for the release of documentary evidence and the investigative report to an alleged perpetrator if disciplinary action is taken as a result of an investigation. *See* 25 T.A.C. §§ 404.10(4), 404.15(3). The department took disciplinary action against the employee in this instance; thus, the department must release to the requestor the investigative report and the documentary evidence.<sup>1</sup>

You have highlighted portions of the information that you assert are protected from disclosure pursuant to section 403.291 of title 25 of the Texas Administrative Code. The highlighted portions are the names of department clients. However, we do not read this rule to protect these names from disclosure to this requestor. Consequently, the department must release the information without redacting the highlighted portions.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/rho

Ref.: ID# 101535

Enclosures: Submitted documents

cc: Ms. Jean Spies  
1811 Dundee Corinth  
Denton, Texas 76205  
(w/o enclosures)

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<sup>1</sup>We note that the file contains a document titled Memo for the Record Receipt of and Confidentiality of DPRS Investigation Report, dated May 6, 1996, which indicates that the requestor was given a copy of the DPRS investigation report and an explanation of the department's regulations regarding confidentiality.